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PUC DOCKET NO. 48266

**APPLICATION OF CLECO CAJUN, LLC §
UNDER § 39.158 OF THE PUBLIC §
UTILITY REGULATORY ACT §
§**

**PUBLIC UTILITY COMMISSION
OF TEXAS**

2018 JUN -1 AM 11:29

FILED PUBLIC CLERK

COMMISSION STAFF'S FINAL RECOMMENDATION

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files this Final Recommendation in response to Order No. 2. In support thereof, Staff shows the following:

I. BACKGROUND

On April 13, 2018, Cleco Cajun, LLC (Cleco) filed an application with the Commission for approval to acquire 100% of the ownership interests in Cottonwood Energy Company L.P. (Cottonwood). This application was filed pursuant to Public Utility Regulatory Act §§ 39.154 and 39.158 (PURA).¹ Cottonwood is currently owned by Cottonwood Generating Partners I LLC (Cottonwood Partners I), Cottonwood Generating Partners II LLC (Cottonwood Partners II), and Cottonwood Generating Partners III LLC (Cottonwood Partners III). All of the membership interests of Cottonwood Partners I, Cottonwood Partners II, and Cottonwood Partners III are owned by Cottonwood Development LLC. All of the membership interests of Cottonwood Development LLC are owned by NRG South Central Generating LLC (NRG South Central).²

Cleco is a newly-created company, created for the purpose of acquiring the ownership interests of NRG South Central. Cleco is a wholly-owned subsidiary of Cleco Corporate Holdings LLC (Cleco Corp). Cleco Corp is a wholly-owned subsidiary of Cleco Partners L.P. (Cleco Partners). Cleco Partners is owned by MIP Cleco Partners L.P. (MIP Cleco Partners), British Colombia Investment Management Corporation (BCI), and John Hancock Insurance Company U.S.A.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-58.302 (West 2016 & Supp. 2017), §§ 59.001-66.016 (West 2007 & Supp. 2017) (PURA).

² Application of Cleco Cajun LLC Pursuant to Section 39.158 of the Public Utility Regulatory Act at 3 (April 13, 2018). Footnote two describes the chain of ownership between Cottonwood Energy Company LP and NRG South Central.

Cottonwood owns a 1,263 MW (approximate summer rating) natural gas-fired generation facility in Newton, Texas (the project). The project is located in Texas and interconnected into the Midcontinent Independent System Operator (MISO). The transaction proposed by this application would allow Cleco to acquire 100% of the ownership interests in Cottonwood, among other assets, pursuant to a purchase and sale agreement (PSA) by and among Cleco, NRG South Central, and NRG. The PSA allows for Cottonwood and an NRG subsidiary to enter into the Cottonwood Lease at closing, and thereby lease the project back to the original seller.

Following the proposed transaction, the combined direct and indirect generation ownership of Cleco and its affiliates will equal approximately 8,350.7 MW or less, which is approximately 5.11% of the installed capacity in MISO or capable of delivery into MISO.³ As required by PURA § 39.154, this is less than the ceiling limitation of 20% of the installed capacity in, or capable of delivering electricity to, MISO.

On May 8, 2018, Order No. 2 was issued requiring Staff to file its final recommendation or request a hearing on the merits by June 1, 2018. Therefore, this pleading is timely filed.

II. FINAL RECOMMENDATION

As detailed in the attached memorandum from Werner Roth of the Competitive Markets Division, Staff recommends that the Commission approve Cleco's application. In its application, Cleco sets the value of the combined generation capacity owned in other power regions capable of being delivered into MISO equal to the cleared capacity imports into the MISO region for the 2017/2018 Planning Year, which total 3,483 MW.⁴ Combined with the total capacity located in the MISO region, the installed generation capacity owned by Cleco and its affiliates that is located in and capable of delivering energy into MISO is 8,350.7 MW. Based on the total installed capacity of MISO of 163,391 MW⁵, the calculated combined share of capacity is approximately 5.11%.⁶ Staff has reviewed the application and determined that Cleco's calculations are in compliance with Section 39.154 of PURA and the Commission's substantive rules. Therefore, Staff concludes that Cleco and its affiliates have a combined percentage share of installed

³ *Id.* at 2

⁴ 2016 State of the Market Report for the MISO Electricity Markets at 11 (June 2017)

⁵ As the Application states, the installed capacity in MISO is approximately 175 GW. Cleco adjusts this total to apply the appropriate capacity credit for wind facilities in MISO, which is consistent with Commission practice in other PURA § 39.158 applications.

⁶ $8,350.7 \text{ MW} / 163,391 \text{ MW} = 5.11\%$

generation capacity in MISO, or capable of delivery to MISO, that does not exceed the 20% threshold set by PURA §39.154.

III. CONCLUSION

For the reasons specified above, Staff respectfully recommends the issuance of an order consistent with the above recommendation.

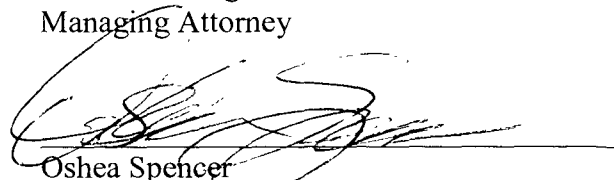
Dated: June 1, 2018

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

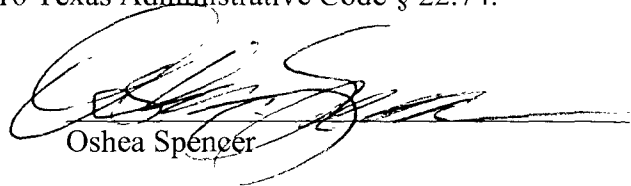
Katherine Lengieza Gross
Managing Attorney

A handwritten signature in black ink, appearing to read 'Oshea Spencer', is written over a horizontal line.

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PUC DOCKET NO. 48266
CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on June 1, 2018 in accordance with the requirements of 16 Texas Administrative Code § 22.74.



Oshea Spenger

Public Utility Commission of Texas

Memorandum

TO: Oshea Spencer, Attorney
Legal Division

FROM: Werner Roth, Market Economist
Competitive Markets Division

DATE: June 1, 2018

RE: Docket No. 48266 - Application of Cleco Cajun LLC Under § 39.158 of the Public Utility Regulatory Act

On April 13, 2018, Cleco Cajun, LLC (Cleco) filed an application (Application) with the Public Utility Commission of Texas (Commission) for approval to acquire 100% of the ownership interests in Cottonwood Energy Company L.P. (Cottonwood).

Section 39.158(a) of the Public Utility Regulatory Act (PURA)¹ requires that:

An owner of electric generation facilities that offers electricity for sale in the state and proposes to merge, consolidate, or otherwise become affiliated with another owner of electric generation facilities that offers electricity for sale in this state shall obtain the approval of the [C]ommission before closing, if the electricity offered for sale in the power region by the merged, consolidated, or affiliated entity will exceed one percent of the total electricity for sale in the power region.

PURA requires the Commission “[to] approve the transaction unless it finds that the transaction results in a violation of [PURA] § 39.154”,² which prohibits a power generation company from “own[ing] and control[ling] more than 20 percent of the installed generation capacity located in, or capable of delivering electricity to, a power region.”³

Cottonwood owns and operates a 1,263 MW natural gas-fired generation facility (the Project). The Project is located in Newton County, Texas, and it is interconnected into the Midcontinent Independent System Operator (MISO) grid. Cottonwood is currently owned by Cottonwood Generating Partners I LLC, Cottonwood Generating Partners II LLC, and Cottonwood Generating Partners III LLC. All of the membership interests of these companies are owned by Cottonwood Development LLC, all of whose membership interests are owned by NRG South Central Generating LLC (NRG South Central). Cleco intends to acquire 100% of the

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.302 (West 2016 & Supp. 2017), §§ 59.001-66.016 (West 2007 & Supp. 2017).

² PURA § 39.158(a).

³ PURA § 39.154(a).

ownership interests in Cottonwood, among other assets, in a Purchase and Sale Agreement among Cleco, NRG South Central, and NRG Energy, Inc. (NRG). As shown in Attachment 1 of the Application, Cleco and its affiliates will own approximately 4,867.7 MW of installed generation capacity that is located in MISO.

In addition, Cleco or its affiliates, either directly or indirectly, may hold active or passive generation assets capable of delivering electricity into MISO. In the Application, Cleco sets the value of the combined generation capacity owned in other power regions capable of being delivered into MISO equal to the cleared capacity imports into the MISO region for the 2017/2018 Planning Year, which total 3,483 MW.⁴ Combined with the total capacity located in the MISO region, the installed generation capacity owned by Cleco and its affiliates that is located in or capable of delivering energy into MISO is 8,350.7 MW. Based on the total installed capacity in MISO of 163,391 MW,⁵ the calculated combined share of capacity is approximately 5.11%.⁶

Staff has reviewed the Application and determined that the input numbers used in the calculation are in compliance with the Commission's Substantive Rules. In addition, the calculation of the percentage value appears to be in accordance with PURA § 39.154. Therefore, Staff has concluded that Cleco and its affiliates have a combined percentage share of installed generation capacity in MISO, or capable of delivery to MISO, that does not exceed the 20% threshold set by PURA § 39.154.

Staff recommends that the Application is in compliance with applicable Commission rules and statutes, and therefore that it should be approved.

⁴ 2016 State of the Market Report for the MISO Electricity Markets at 11 (June 2017)

⁵ As the Application points out, the installed capacity in MISO is approximately 175 GW. Cleco adjusts this total to apply the appropriate capacity credit for wind facilities in MISO, which is consistent with Commission practice in other PURA § 39.158 applications.

⁶ $8,350.7 \text{ MW} / 163,391 \text{ MW} = 5.11\%$.